

CITY-COUNTY GENERAL ORDINANCE NO. 15, 2010
Proposal No. 88, 2010

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 2009-AO-04

PROPOSAL FOR A GENERAL ORDINANCE to the Revised Code to clarify that a solid waste transfer station requires Special Exception approval in order to be established in the I-4-U and I-4-S districts, and to fix a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers it to approve and recommend to the City-County Council of the City of Indianapolis and/or Marion County, Indiana ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; and,

WHEREAS, the listing of permitted uses within each zoning district is a primary method of achieving the purposes set forth above; and,

WHEREAS, the Industrial Zoning Ordinance ("IZO") does not explicitly list a "solid waste transfer station" as a permitted or prohibited use in the I-4-S and I-4-U districts or any other zoning district; and,

WHEREAS, the definition of "motor truck terminal," a use permitted in the I-4-S and I-4-U districts, is insufficient to exclude a waste transfer station from being described by that term; and,

WHEREAS, because of the lack of inclusion of a "solid waste transfer station" in permitted use lists and the insufficiency of the definition of "motor truck terminal," the Supreme Court of Indiana ruled, in 600 Land, Inc. v. Metropolitan Board of Zoning Appeals of Marion County, Indiana, Division One, that a solid waste transfer station qualifies as a motor truck terminal and "is a permitted use under the IZO without a special exception;" and,

WHEREAS, it is the desire of the Metropolitan Development Commission, and in the best interest of the general public, that the interpretation of laws and ordinances be as certain and consistent as possible when differentiating possible objectionable uses from those that may be considered less so; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Subsection (d)(2) of Section 733-201 of the "Revised Code of the Consolidated City and County," regarding uses permitted by Special Exception within the I-4-S and I-4-U zoning districts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 733-201. I-1-S and I-1-U uses.

(d) *Permitted I-4-S and I-4-U uses.*

(2) *I-4-S and I-4-U uses permitted by special exception.* In addition, the following uses shall be permitted in the I-4-S and I-4-U Districts by special exception only, upon the grant of a special exception by the Metropolitan Board of Zoning Appeals as set forth in section 733-212. These uses shall conform to either the I-4-S development standards (section 733-205(a)); and I-4-S performance standards (section 733-205(b)); or the I-4-U development standards (section 733-209(a)); and I-4-U performance standards (section 733-209(b)); as well as all requirements set forth in section 733-212 and all conditions attached to the grant of such special exception by the Metropolitan Board of Zoning Appeals. In case of conflict, the more restrictive standards or requirements shall prevail.

- a. Bulk storage of petroleum products.
- b. Coke ovens, blast furnaces, steel and iron production.
- c. Fat rendering.
- d. Foundries.
- e. Leather curing and tanning.
- f. Manufacture of:
 - 1. Batteries, storage or primary batteries, wet or dry.
 - 2. Cement, lime and gypsum.
 - 3. Chemicals and gases.
 - 4. Creosote, including treatment.
 - 5. Explosives, matches, and fireworks.
 - 6. Fertilizer.
 - 7. Oil, including refining or processing.
 - 8. Plastic materials and synthetic resin.
 - 9. Smelting (primary) and refining of nonferrous metals.
 - 10. Tar, tar paper and tar products - manufacturing or processing.
- g. Open hearths and blast furnaces.
- h. Production of emulsified asphalt and preparation of asphaltic concrete paving material.
- i. Sand, gravel or aggregate washing, screening or processing (not including mining or dredging).
- j. Scrap metal, junk or salvage storage or operation, open or enclosed, including automobile or truck wrecking or recycling, construction materials recycling, or similar uses.
- k. Slaughtering or meat packing.
- l. Stock yards for shipping, holding and the sale of animals.
- m. Vehicle storage (wrecked or inoperable).
- n. Vehicle wrecking and salvage operation, shredder.
- o. Wrecker service.
- p. Waste transfer station, subject also to the regulations of section 733-205(a)(1)c. (I-4-S) or section 733-209(a)(1)c. (I-4-U).
- pg. Any similar use requiring outside storage.

SECTION 2. Subsection (a)(1) of Section 733-205 of the "Revised Code of the Consolidated City and County," regarding development standards to be followed by I-4-S uses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 733-205. I-4-S Heavy Industrial Suburban District.

...

(a) *I-4-S development standards.*

(1) *Use.*

a. *Outside operations and storage area limitation.* In no case shall the total area of outside operations and storage exceed seventy-five (75) percent of the lot area, provided, however, outside operations and storage shall not be permitted within any required yard or required transitional yard (see section 733-213, Diagram I).

1. The maximum vertical height of equipment and materials stored shall be twenty (20) feet.
2. All such equipment and storage shall, at all times, be effectively screened by the fencing and buffer planting required by section 733-205(a)(6) and section 733-211(e).
3. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:

- i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
- ii. Be located behind the established front building line; and
- iii. Not be located within a required yard or required transitional yard unless located within a parking area ~~which~~ that is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

b. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.
2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

c. *Motor truck terminals and waste transfer stations.* Motor truck terminals and waste transfer stations shall be subject to the following exception: ~~The~~ parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

SECTION 3. Subsection (a)(1) Of Section 733-209 of the "Revised Code of the Consolidated City and County" regarding development standards to be followed by I-4-U uses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 733-209. I-4-U Heavy Industrial Urban District.(a) *I-4-U development standards.*(1) *Use.*

a. *Outside operations and storage area limitation.* In no case shall the total area of outside operations and storage exceed seventy-five (75) percent of the lot area, provided, however, outside operations and storage shall not be permitted within any required yard or required transitional yard (see section 733-213, Diagram I).

1. The maximum vertical height of equipment and materials stored shall be twenty (20) feet.
2. All such equipment and storage shall, at all times, be effectively screened by the fencing and buffer planting required by section 733-209(a)(6) or section 733-211(e).
3. Trash containers. Within one hundred (100) feet, measured in any direction (see section 733-213, Diagram H), of a protected district, trash containers exceeding forty-eight (48) cubic feet shall:
 - i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
 - ii. Be located behind the established front building line; and
 - iii. Not be located within a required yard or required transitional yard unless located within a parking area which that is permitted in a required yard.

Exception: This provision shall not apply if the trash container is visibly obstructed from a protected district by an intervening building or structure on the lot, even though the trash container is located within one hundred (100) feet of a protected district.

b. *Private or commercial mobile radio communications, radio or television antennas.* Towers or antennas shall be subject to the following regulations:

1. There shall be no height limitation, except conformity with all requirements and limitations of Chapter 735, Article I of this Code.
2. Any guy anchorages shall be set back at least thirty (30) feet from any lot line.

c. *Motor truck terminals and waste transfer stations.* Motor truck terminals and waste transfer stations shall be subject to the following exception: ~~T~~he parking of trucks or trailers shall not be defined or construed as outside storage in computing permitted outside storage and operations within this district.

SECTION 4. Subsection (b) of Section 733-213 of the "Revised Code of the Consolidated City and County" regarding Industrial Zoning Districts definitions, and specifically the definition of *motor truck terminal* therein, hereby is amended by the addition of the language that is underscored, to read as follows:

Sec. 733-213. Construction of language and definitions.

(b) *Definitions.* The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

Motor truck terminal. A building or area in which trucks, including tractor or trailer units, are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment. This definition shall not include waste transfer stations.

SECTION 5. Subsection (b) of Section 733-213 of the "Revised Code of the Consolidated City and County" regarding Industrial Zoning Districts definitions, hereby is amended by the addition of a definition of waste transfer station, to read as follows:

Sec. 733-213. Construction of language and definitions.

(b) Definitions. The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

Waste transfer station. A site or facility where solid waste is unloaded from collection vehicles and transferred onto larger-load transport vehicles, either immediately or following a temporary storage period, for shipment to landfills or other treatment or disposal facilities.

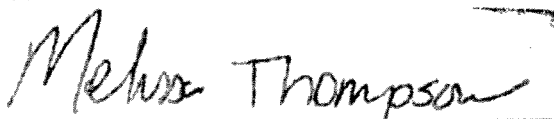
SECTION 6. The expressed or implied repeal or amendment by this ordinance or of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 7. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

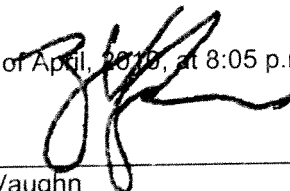
SECTION 8. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this 5th day of April, 2010, at 8:05 p.m.


ATTEST:



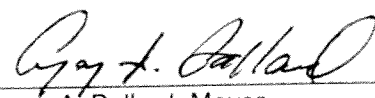
Melissa Thompson
Clerk, City-County Council


Ryan Vaughn
President, City-County Council

Presented by me to the Mayor this 8th day of April, 2010, at 10:00 a.m.


Melissa Thompson
Clerk, City-County Council

Approved and signed by me this 14 day of April, 2010.


Gregory A. Ballard, Mayor

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I, Melissa Thompson, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 88, 2010, a Proposal for GENERAL ORDINANCE, passed by the City-County Council on the 5th day of April, 2010, by a vote of 25 YEAS and 0 NAYS, and was retitled General Ordinance No. 15, 2010, which was signed by the Mayor on the 14 day of April, 2010, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 14 day of April, 2010.

Melvin Thompson

Melissa Thompson
Clerk, City-County Council

(SEAL)